# SENATE JOURNAL

Thirty-Eighth Legislature—Third Called Session.

## FIRST DAY.

Senate Chamber, Austin, Texas,

Wednesday, May 16, 1923.
In obedience to the call of His Excellency, Hon. Pat M. Neff, Governor of the State of Texas, convening the Thirty-eighth Legislature in Third Special Session, this the 16th day of May, A. D. 1923, the Senate met in the Senate Chamber of the Capitol in the City of Austin at 10 o'clock, a. m. and was called to order by President

# Temporary Officers.

Pro Tem I. E. Clark.

Secretary, W. V. Howerton.

Assistant Secretary, Richard Blalock.

Sergeant-at-Arms, A. W. Holt. Assistant Sergeant-at-Arms, J. A. Kenny.

Journal Clerk, Tilden Childs.
Assistant Journal Clerk, Mrs. Josephine Collins.

Calendar Clerk, Hester Streitch. Telephone Operator, Miss Mary Jacobs.

Doorkeeper, W. H. Brummett. Assistant Doorkeeper, Lane Tynes. Chaplain, Rev. T. M. Dalton.

## Roll Call.

The following Senators answered to their names:

Baugh. Parr Bowers. Pollard. Burkett. Rice. Clark. Ridgeway. Darwin. Rogers. Doyle.. Stuart. Fairchild. Thomas. Turner. Floyd. Holbrook. Watts. Lewis. Witt. McMillin. Wood. Murphy. Woods.

# Absent.

Bailey. Davis.
Bledsoe. Strong.
Cousins. Wirtz.

1-Senate.

Prayer by Rev. T. M. Dalton of Austin.

Proclamation by the Governor of the State of Texas.

To the members of the Senate and House of Representatives of the Thirty-eighth Legislature:

I, Pat M. Neff, Governor of the State of Texas, by virtue of authority vested in me by the Constitution of the State of Texas, in Article 4, Section 8, do hereby call the Thirty-eighth Legislature in Third Called Session to convene in the city of Austin, Texas, at 10 o'clock Wednesday morning, May 16, 1923, to adjust by appropriate legislation the wide discrepancy between the appropriations heretofore made by the Thirty-eighth Legislature for the maintenance of our State institutions and the estimated available revenues out of which said appropriations are to be met, to the end that the State may be kept on a cash basis; also to consider such other matters as may be presented by the Governor in keeping with the laws and the Constitution of the State of Texas.

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the seal of the State, at the city of Austin, Texas, this the 15th day of May, 1923.

PAT M. NEFF, Governor of Texas.

# Caucus Report.

Senate Chamber, Austin, Texas, May 16, 1923.

By Senator Floyd:

Hon. T. W. Davidson, President of the Senate.

Sir: A caucus was held in the Secretary's office of the Senate attended by twenty-one Senators.

The purpose of the caucus was to determine the number and personnel of the Senate employees for the ensuing Third Called Session of the Thirty-eighth Legislature.

Senator Clark was elected chairman of the caucus and Senator Floyd was elected secretary.

The following officers and employees were recommended as officers and employees of the Senate during the Third Called Session of the Thirty-eighth Legislature.

Secretary, W. V. Howerton.

Assistant Secretary, Richard lock.

Journal Clerk, Tilden Childs.

Assistant Journal Clerk, Mrs. Josephine Collins.

Second Assistant Journal Clerk, Miss Rebecca Bradley.

Sergeant-at-Arms, A. W. Holt. First Assistant Sergeant-at-Arms,

J. A. Kenny.

Second Assistant Sergeant-at-Arms, Morris Midkiff.

Third Assistant Sergeant-at-Arms, Morris Hankins.

Calendar Clerk, T. H. Streitch.

Assistant Calendar Clerk, Mrs. W. R. Davis.

Mailing Clerk, Mrs. Beulah Swann. Assistant Mailing Clerk, Mrs. Lottie Sturdivant.

Assistant Mailing Clerk, Miss Mary

Assistant Mailing Clerk, Mrs. M. A. Belcher.

Postmistress, Miss Reese Williamson.

Chaplain, Rev. T. M. Dalton.

Mary Telephone Operator, Miss Jacoba.

Doorkeeper, W. H. Brummitt.

Assistant Doorkeeper, Lane Tynes. Librarian, Miss Mary Belle Strauss. Paper Men: Old Ladies' Home, J. J.

McCullough; Old Ladies' Confederate Home, Russel Melson; Confederate Home, Johnnie Cook.

It is further recommended that the Chairman of the Enrolling and Engrossing Committees be authorized to employ enrolling and engrossing clerks and such assistants as necessary, and that their appointments be referred to the Senate for confirmation. And that the enrolling and en-\$7.50 per day, respectively, for their services.

It is further recommended that each Senator be permitted to name one stenographer, and that such employee act as clerk of each committee of which said Senator shall be chairman.

It is further recommended that the President of the Senate have exclusive appointment of such number of pages and porters as in his judgment may be necessary.

expressly provided, shall receive \$5.00 during the Regular Session.

per day, except that the Secretary of the Senate, the Journal Clerk, the Calendar Clerk and the Sergeantat-Arms shall each receive \$7.50 per day, and except further that the pages shall receive \$2.50 per day, and all the porters, except the head porter and porter who carries the mail, shall receive \$2.00 per day, and the head porter and the porter who carries the mail shall receive \$3.00 per

It is further recommended that the Lieutenant Governor be authorized to use any of the employees needed for any other work in the Senate where their services may be required in the judgement of the Lieutenant Governor.

It is further recommended that the Lieutenant Governor be permitted to select a secretary and an assistant secretary and personal messengers and that their salaries be the same as in the Regular Session.

It is further recommended that the Senators be given such time as they desire to name their personal appointments and that such appointments be made by handing the names of such appointees to the Secretary of

recommended It is further 2,000 copies of the Daily Journal be printed and that the same be prorated among the Senators and the Lieutenant Governor, except that 300 shall be furnished the members of the House.

It is further recommended that the Sergeant-at-Arms rent such typewriters as may be necessary for the use of the employees of the Senate, such rental not to exceed four dollars per month each.

It is further recommended that the Lieutenant Governor and each Senator be allowed the stationery and postage grossing clerks shall each receive needed by them, respectively, and be allowed expenses incurred in transmitting and receiving the telephone messages and telegraph messages that may be actually necessary in the discharge of their respective official duties; and that the Secretary and Journal Clerk be allowed between them \$5.00 in postage for their use in their official capacity.

It is further recommended that the Chairman of the Finance Committee be authorized to appoint a clerk to the It is further recommended that Finance Committee, and a stenograph-compensation of officers and emer to the Finance Committee, and that ployees named, except as otherwise their salaries shall be the same as

It is further recommended that each Senator and the Lieutenant Governor be permitted to subscribe to five daily papers to be paid for out of the contingent fund.

CLARK, Chairman FLOYD, Secretary.

The caucus report was laid before the Senate and on motion of Senator Wood, the Secretary was directed to cast the vote of the entire Senate for those named in said caucus report to be the elective officers of the Senate. The same was done and the officers were declared elected.

# Appointment of Senate Employees.

The following appointments were announced by the Chair for Lieutenant Governor T. W. Davidson:

Private Secretary, John Cofer.

Assistant Secretary, Mrs. J. G. Barcus.

Messenger, Wm. Dunn.

Pages: Joe Erwin, Wm. Eilers, Thos. Johnson, Buster Pound, C. C. Dorsey, Bob Pinkston, Fred Rowland, David Ramsey, Chas. Howell, Wm. Davis, Frank Westbrook, Lloyd Coffee, Bill Smith.

Porters: James Jackson, headporter; Tom Burton, Sam Grant, Buck Green, Ben Thompson, John Roberts, Monroe Williams.

# Oath of Office Administered to Officers.

The following officers appeared before the bar of the Senate and were administered the oath of office by Lieutenant Governor Davidson:

Secretary, W. V. Howerton; Assistant Secretary, Richard Blalock; Journal Clerk, Tilden Childs: Assistant Journal Clerk, Mrs. Josephine Collins; Second Assistant Journal Clerk, Miss Rebecca Bradley; Sergeant-at-Arms, A. W. Holt; First Assistant Sergeant-at-Arms, J. A. Kenny; Second Assistant Sergeant-at-Arms, Morris Midkiff; Third Assistant Sergeantat-Arms, Morris Hankins; Calendar Clerk, T. H. Streitch; Assistant Calendar Clerk, Mrs. W. R. Davis; Mailing Clerk, Mrs. Beulah Swann; Assistant Mailing Clerk, Mrs. Lottie Sturdevant; Assistant Mailing Clerk, Miss Senators for the honor conferred upon Mary Jones; Assistant Mailing Clerk, him.

Mrs. M. A. Belcher; Postmistress, Miss Reese Williamson; Chaplain, Rev. T. M. Dalton; Telephone Operator, Miss Mary Jacobs; Doorkeeper, W. H. Brummett; Librarian, Miss Mary Bell Strauss; Paper Men: Old Ladies' Home, J. J. McCullough; Old Ladies' Confederate Home, Russell Nelson: Confederate Home, Johnnie Cook.

#### House Notifies Senate.

Here a committee of the members of the House appeared at the bar of the Senate and notified the Senate that the House was organized and ready for business.

The Senate received the message and thanked the committee.

## Election of President Pro Tem.

The Chair announced that nominations were in order for President Pro Tem.

Senator Rogers placed Senator Burkett in nomination for President Pro Tem.

Senator Woods seconded the nomination of Senator Burkett.

Senator Murphy nominated Senator

Senator Stuart seconded the nomination of Senator Lewis.

There being no other nominations, the Chair announced that nominations were closed, and directed the Senators to prepare their ballots.

Senators Baugh, Parr and Thomas were appointed tellers, and announced that Senator Lewis had received 12 votes and Senator Burkett 11 votes.

The Chair declared Senator Lewis duly and constitutionally elected President Pro Tem of the Senate for this Third Called Session.

The Chair appointed Stuart, Bowers and Watts as a committee to escort President Pro Tem Lewis to the President's stand.

Senator Lewis was escorted to the bar of the Senate and was administered the constitutional oath of office.

Senator Lewis then briefly addressed the Senate, and thanked the

# Simple Resolution No. 1.

By Senator McMillin:

Resolved, That the rules of the Regular Session and of the First and Second Called Sessions of the Thirty-eighth Legislature be adopted as the rules of the Senate for the Third Called Session of the Thirty-eighth Legislature.

The resolution was read and adopted.

## Senate Concurrent Resolution No. 1.

By Senator McMillin:

Resolved. That the Senate of the Thirty-eighth Legislature, the House of Representatives concurring, that the joint rules of the Senate and House of the Regular Session and of the First and Second Called Sessions be adopted as the joint rules of the Senate and House for the Third Called Session of the Thirty-eighth Legislature.

The resolution was read and adopted.

## Simple Resolution No. 2.

By Senator Wood:

Whereas, Senator R. M. Dudley, who represented the Twenty-fifth Senatorial District in the Thirty-eighth Legislature, resigned during the Second Called Session of said Legislature, and

Whereas, No successor has been elected to the position made vacant by the resignation of Senator Dudley, and

Whereas, It is necessary for someone to take care of the notary list and look after the correspondence from that district; now, therefore, be it

Resolved, That Mrs. Elma Merryman, who was private secretary to Senator Dudley during the Thirty-seventh and Thirty-eighth Legislatures, be employed to act as clerk for the Twenty-fifth Senatorial District during the Third Called Session of the Thirty-eighth Legislature, and that she be paid five (\$5.00) dollars per day for her services; and that she be given authority to sign for stamps, telegrams and telephone calls just as a Senator from that district could do if present.

The resolution was read and adopted, eighth Legislature, and

## Committees Appointed to Notify the Governor and the House,

Upon the motion of Senator Clark, the following committees were appointed to notify the Governor and the House that the Senate was organized and ready for work:

To notify the Governor: Senators Baugh, Bowers and Thomas.

To notify the House: Senators Burkett, Watts and Parr.

### Notification Committee Report.

Notification committees, appointed to notify the Governor and the House that the Senate was organized and ready for business, here appeared, made reports, and were discharged.

# Bills on First Reading.

The following bills, introduced today, were read first time and referred to appropriate committees as follows:

By Senator Wood:

S. B. No. 1, A bill to be entiled "An Act making an appropriation to pay the contingent expenses of the Third Called Session of the Thirty-eighth Legislature and to supplement the appropriation to pay the contingent expenses of the Second Called Session of the Thirty-eighth Legislature, said Third Called Session being convened May 16, 1923, by proclamation of the Governor, and declaring an emergency."

To the Committee on Finance,

By Senator Wood:

S. B. No. 2, A bill to be entitled "An Act making an appropriation to pay the per diem pay of members, and the per diem pay of officers and employees of the Third Called Session of the Thirty-eighth Legislature of the State of Texas, convened May 16, 1923, by proclamation of the Governor, and declaring an emergency."

To the Committee on Finance.

# Senate Concurrent Resolution No. 2.

By Senators Bowers and Darwin: Whereas, The House and Senate of Texas have thoroughly considered revenue measures during the Regular and Special Session of the Thirtyeighth Legislature, and

main question to be considered during this called session, and will be the paramount measures to be considered, now, therefore be it Resolved, By the Senate and the

House of Representatives concurring, that the Committee on Revenue and Taxation in the House and the Committee on State Affairs of the Senate he requested to work and act together, and if possible agree on such revenue measures as in their judgment is reasonably certain to be agreed upon, and can be agreed upon by both Houses.

The resolution was read and adopted.

#### Excused.

On motion of Senator Doyle, all absent Senators were excused for today and until next Monday, on account of important business.

# S. B. No. 2 on Second Reading.

On motion of Senator Wood, constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 2 was put upon its second reading and passage to engrossment by the following vote:

# Yeas-24.

Baugh. Parr. Bowers. Pollard. Burkett. Rice. Clark. Ridgeway. Darwin. Rogers. Doyle. Stuart. Fairchild. Thomas. Floyd. Turner. Holbrook. Watts. Lewis. Witt. McMillin. Wood. Murphy. Woods.

# Absent-Excused.

Bailey. Davis. Bledsoe. Strong. Cousins. Wirtz.

The Chair then laid before Senate on its second reading,

S. B. No. 2, A bill to be entitled "An Act making an appropriation to pay the per diem pay of members, and the per diem pay of officers and employees of the Third Called Session of the Thirty-eighth Legislature of the Davis.

Whereas, The question of working State of Texas, convened May 16, out proper revenue measures is the 1923, by proclamation of the Governor, and declaring an emergency."

The bill was read the second time.

On motion of Senator Wood, the Senate rule requiring committee reports to lie over one day, was suspended by unanimous consent, and the committee report that the bill be not printed, was adopted. S. B. No. 2 was then passed to en-

grossment.

# S. B. No. 2 on Third Reading.

On motion of Senator Wood, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 2 was put upon its third reading and final passage by the following vote:

#### Yeas-24.

Baugh. Parr. Pollard. Bowers. . Burkett. Rice. Ridgeway. Clark. Darwin. Rogers. Stuart. Doyle. Fairchild. Thomas. Floyd. Turner. Holbrook. Watts. Lewis. Witt. Wood. McMillin. Woods. Murphy.

## Absent—Excused.

Bailey. Davis. Bledsoe. Strong. Cousins. Wirtz.

The Chair then laid S. B. No. 2 before the Senate on its third reading and final passage.

The bill was read third time and passed by the following vote:

# Yeas-24.

Baugh. Parr. Pollard. Bowers. Burkett. Rice. Ridgeway. Clark. Cousins. Rogers. Darwin. Stuart. Thomas. Doyle. Fairchild. Turner. Floyd. Watts. Holbrook. Witt. Lewis. Wood. McMillin. Woods.

# Absent-Excused.

Murphy. Bailey. Strong. Bledsoe. Wirtz.

## S. B. No. 1 on Second Reading.

On motion of Senator Wood, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 1 was put upon its second reading and passage to engrossment, by the following vote:

#### Yeas-24.

Baugh. Parr. Bowers. Pollard. Rice Burkett. Ridgeway. Clark. Cousins. Rogers. Darwin. Stuart. Thomas. Doyle. Fairchild. Turner. Floyd. Watts. Witt. Holbrook. Wood. Lewis. Woods. McMillin.

#### Absent—Excused.

Murphy. Bailey Bledsoe. Strong. Wirtz. Davis.

The Chair then laid before Senate on its second reading,

S. B. No. 1, A bill to be entitled "An Act making an appropriation to pay the contingent expenses of the Third Called Session of the Thirtyeighth Legislature and to supplement the appropriation to pay the contin-gent expenses of the Second Called Session of the Thirty-eighth Legislature, said Third Called Session being convened May 16, 1923, by proclamation of the Governor, and declaring an emergency."

The bill was read second time.

On motion of Senator Wood, the Senate rule requiring committee reports to lie over one day was suspended by unanimous consent, and the committee report that the bill be not printed was adopted.

S. B. No. 1 was then passed to engrossment.

# S. B. No. 1 on Third Reading.

On motion of Senator Wood, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. ward and were administered the con-1 was put upon its third reading and stitutional oath of office by President final passage by the following vote: Pro Tem Clark.

## Yeas-24.

Baugh. Parr Pollard. Bowers. Burkett. Rice. Clark. Ridgeway. Cousins. Rogers. Darwin. Stuart. Doyle. Thomas. Fairchild. Turner. Floyd. Watts Holbrook. Witt. Lewis. Wood. McMillin. Woods.

#### Absent—Excused.

Bailey, Murphy. Bledsoe Strong. Davis. Wirtz.

The Chair then laid S. B. No. 1 before the Senate on its third reading and final passage.

The bill was read third time and passed by the following vote:

## Yeas-24.

Baugh. Parr. Bowers. Pollard. Burkett. Rice. Clark. Ridgeway. Cousins Rogers. Darwin. Stuart. Doyle. Thomas. Fairchild. Turner. Floyd. Watts. Witt. Holbrook. Lewis. Wood. McMillin. Woods.

# Absent-Excused.

Bailey. Murphy. Strong. Bledsoe. Wirtz. Davis.

# Simple Resolution No. 3.

By Senators Doyle and Darwin: We move that the following elected to the following places:

Edward Mixon-Engrossing Clerk. Miss Lucile Phelps-Assistant Engrossing Clerk.

Carl L. Boes-Enrolling Clerk. Miss Margaret Hill-Assistant Enrolling Clerk.

The resolution was read and adopted. The above officers then came forward and were administered the con-

## Message From the Governor.

The following message from the Governor was read to the Senate:

Governor's Office, Austin, Texas, May 16, 1923. To the Members of the Thirty-eighth

Legislature, Third Called Session: Gentlemen: It has been conservatively estimated that you have appropriated for the maintenance of the institutions of the State, and for the support of the departments of the Texas Government for the two years beginning September first, 1923, more than eight million dollars in excess of the available revenue coming into the State during said two years.

You have therefore been reconvened in this your Third Called Session in order that you might bring the appropriations within the available revenues. This question, strictly con-strued, and no other subject matter, is hereby submitted to you for your consideration.

Respectfully submitted PAT M. NEFF, Governor.

Recess.

On motion of Senator Bowers, the Senate at 11:45 o'clock a. m. recessed until 3 p. m. today.

# Afternoon Session.

The Senate met at 3 p. m. and was called to order by President Pro Tem H. L. Lewis.

# Simple Resolution No. 4.

By Senators Stuart and McMillin: Whereas, Senator Wood of Williamson County is chairman of the Finance Committee, and his presence is very much needed and desired in the Senate in order to effectively transact the business of the Third Called Session of the Thirty-eighth Legislature; and

Whereas, Senator Wood has several criminal cases pending in the district courts of Travis and Williamson Counties in which he is attorney for defendant; and

represent the interest of his clients: therefore, be it

Resolved, That the district judge of said counties in which said cases: are pending be requested by the Senate to extend or continue said cases insofar as possible to be done wherein justice will not be hampered and the interest of the State will not be jeopardized, in order that, the chairman of the Finance Committee may be present and do a most needed work in the Third Called Session of the Thirty-eighth Legislature of Texas.

The resolution was read and adopted.

#### Recess.

On motion of Senator Darwin, the Senate at 3:10 p. m. recessed until 10 o'clock a. m. tomorrow.

#### APPENDIX,

# Committee Reports.

Senate Chamber. Austin, Texas, May 16, 1923. Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 1 carefully compared, and find same correctly engrossed.

DOYLE, Chairman.

Senate Chamber, Austin, Texas, May 16, 1923. Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills have had S. B. No. 2 carefully compared, and find same correctly engrossed.

DOYLE, Chairman.

Committee Room. Austin, Texas, May 16, 1923. Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 1, A bill to be entitled "An Act making an appropriation to pay the contingent expenses of the Third Called Session of the Thirty-eighth Legislature and to supplement Whereas, Some of said cases have been set for trial at this term of Session of the Thirty-eighth Legislacourt, which, if tried, will necessiture, said Third Called Session being tate his being present in order to convened May 16, 1923, by proclamation of the Governor, and declaring an emergency."

Have had same under consideration and I am instructed to report the same back to the Senate with the recomendation that it do pass, and be not printed.

WOOD, Chairman.

Committee Room, Austin, Texas, May 16, 1923. Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 2. A bill to be entitled "An Act making an appropriation to pay the per diem pay of members, and the per diem pay of officers and employees of the Third Called Session of the Thirty-eighth Legislature of the State of Texas, convened May 16th, 1923, by proclamation of the Governor, and declaring an emergency."

Have had same under consideration and I am instructed to report the same back to the Senate with recomendation that it do pass, and be not printed.

WOOD, Chairman.

#### FIRST DAY.

(Continued.)

Senate Chamber, Austin, Texas,

Thursday, May 17, 1923. The Senate met at 10 o'clock a. m., and was called to order by President Pro Tem H. L. Lewis.

# Simple Resolution No. 5.

By Senator Floyd:

Whereas, The Legislature has been called into an extra session to adjust the discrepancies between the available revenues and the appropriations passed at the second called session, and

Whereas, It has been estimated that the appropriations exceed the available revenues approximately four million dollars each for the next two fiscal years, and

Whereas, The Legislature will either have to enact new tax measures or reduce the appropriations, therefore be it

should be reduced to within the available revenues rather than to enact new tax measures to further burden the people and the commercial industries of this State.

The resolution was read, and on motion of Senator Holbrook, was laid on the table subject to call.

# Simple Resolution No. 6.

By Senator Darwin:

lature:

Resolved, That the Lieutenant Governor's page, Joe Erwin, get \$3.50 per day for this session.

The resolution was read and adopted.

# Message from the Governor.

The following message received from the Governor, was laid before the Senate and read:

Governor's Office. Austin, Texas, May 16, 1923. To the Members of the Third Called Session of the Thirty-eighth Legis-

Gentlemen: I have been requested by the House of Representatives to state whether or not my message to the Third Called Session of the Thirty-eighth Legislature included the subject of revenue measures. This is to advise that it was my purpose that this message include, and I hereby submit to you, both the subjects of revenue and appropriations, to the end that the wide discrepancy between the appropriations heretofore made by your Honorable Body for the maintenance of our State institutions and the estimated available revenues out of which said appropriations are to be met, be eliminated.

Respectfully submitted, PAT M. NEFF, Governor.

## Message from the House.

Hall of the House of Representatives. Austin, Texas, May 17, 1923. Hon. T. W. Davidson, President of

the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. C. R. No. 1, relating to the adop-Resolved. That it is the sense of tion of the Joint Rules of the House the Senate, that the appropriations and Senate.